

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUVENTINO ALVARADO and
PILAR ALVARADO, husband and
wife,

Plaintiffs,

v.

HOME 123 CORPORATION, and
BANK OF AMERICA, N.A., and
NATIONSTAR MORTGAGE, LLC,
and FEDERAL HOME LOAN
MORTGAGE CORPORATION,

Defendants.

NO: 13-CV-0343-TOR

ORDER GRANTING VOLUNTARY
DISMISSAL WITHOUT PREJUDICE

BEFORE THE COURT is Plaintiff's Notice of Dismissal (ECF No. 10).

Plaintiff filed a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) on October 24, 2012. Because Defendant has neither filed an answer nor moved for summary judgment, Plaintiff has an absolute right to voluntarily dismiss this case. Fed. R. Civ. P. 41(a)(1)(A)(i). This is the case despite the pending motion to dismiss by Defendant Bank of America, N.A. (ECF

1 No. 4). *Concha v. London*, 62 F.3d 1493, 1507 (9th Cir. 1995) (“Even if the
2 defendant has filed a motion to dismiss, the plaintiff may terminate his action
3 voluntarily by filing a notice of dismissal under Rule 41(a)(1).”).

4 **ACCORDINGLY, IT IS HEREBY ORDERED:**

5 All claims and causes of action in this matter are **DISMISSED** without
6 prejudice and without costs or fees to any party. All pending motions are
7 **DENIED** as moot.

8 The District Court Executive is hereby directed to enter this Order, furnish
9 copies to counsel, and **CLOSE** the file.

10 **DATED** October 25, 2013.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
United States District Judge